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Lisa Vest
Public Hearing Officer
State of Delaware – DNREC
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9/27/13

Dear Ms. Vest;

I am submitting comments regarding DNREC's plans to revise Regional Greenhouse Gas Initiative auction rules. CRI opposes the rule changes on the following basis:

1. Delaware Code Title 7, Chapter 60, sub-chapter II-A establishes Delaware's participation in the RGGI program. Section § 6043 titled "Findings, purpose, and definitions" establishes the initial emissions cap at 7,559,787 short tons of CO₂ in (a) (9). The code stabilizes emissions at 7,559,787 short tons through 2015 and reduces such emissions by 10% by 2019 (a) (8). In a separate section, § 6045 titled "Auction of allowances", the Secretary of DNREC is given authority to modify the auction program (c). This authority is related to the auction mechanism, not to the change in the emission reduction goal in a different section of the code. Change to the emission reduction goal requires legislative approval and a signature by the Governor. The Secretary's action in this procedure is illegal.
2. A press release from RGGI, Inc. dated Feb. 7, 2013, page 2, states the proposed rule changes would "Result in a modest increase in allowance prices, with allowances expected to be priced at approximately \$4 (\$2010) per allowance in 2014 and rising to approximately \$10 per allowance in 2020". Secretary O'Mara has acknowledged the \$4 target in testimony before the Joint Sunset Committee. Delaware auction revenues totaled \$5 million in 2011 and \$5.8 million in 2012 with average permit prices under \$2/ton. The announcement of planned new rules has caused auction revenue to rise to a \$16.7 million rate for 2013 based on the first three auctions for the year. We project auction revenue will increase to over \$38 million by 2017. Clearly revenue will rise dramatically tripling this year alone. The Delaware Constitution Article VIII, Sections 10 and 11 bar any new taxes or fees and increases in any taxes and fees without 3/5 majority approval in each legislative chamber. The Secretary's plan to raise auction prices and reserve prices by lowering the emissions cap without legislative approval is in violation of the Constitution.

We respectfully ask the Secretary to submit these changes for legislative approval to avoid a legal challenge.

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